

REMARKS

The present amendment is submitted as part of a Request for Continued Examination, as submitted herewith. Claims 1-146 were pending prior to the instant amendment. By this amendment, claims 1-146 are cancelled, and claims 147-249 are added. No new matter is introduced (see, e.g., specification, as published, paragraphs, Figs. 5-8 and discussion thereof, and the claims 1-146, as previously pending). Thus, claims 147-249 are pending in this application.

First, Applicant wishes to thank Examiner Rhode and SPE Garg for conducting a personal interview with Applicant's representatives on January 31, 2005. Although no agreement was reached, the claims as submitted herewith to include the recited features were substantially discussed and are patentably distinguishable over the previously applied references, *Spagna et al.* (US 6,587,837) and *Ginter et al.* (US 6,253,193) and the references applied in the corresponding EP case and cited in the present case, *Erickson* (US 5,765,152), *Yoshioka et al.* (US 5,884,280), and *Horstmann* (US 6,009,525), whether taken alone or in combination. Specifically, the noted references, whether taken alone or in combination, fail to teach, disclose or suggest all of the features recited in the new claims 147-249. For example, new independent claim 147 (emphasis added) recites:

A method for publishing content, the method comprising:
receiving, by a publishing system, a selection of content from a user of said publishing system, said selection identifying an item of content;
receiving, by said publishing system, a request to publish the selected content from the user of said publishing system;
providing, by said publishing system in response to the request from the user to publish the content, information to a distributor system, said information comprising at least one of a description of the content, metadata of the content, content identifiers, publisher information, content repository indication and a rights specification identifier;
upon receiving the information, said distributor system generating a response using said provided information and pre-defined rules stored in a database, said pre-defined rules for determining whether the distributor system is interested in the content specified by said provided information;
providing, by said distributor system, the response to said publishing system;
determining, by said publishing system, whether the response indicates that the distributor system is interested in the content specified by said provided information; and
only if said publishing system has determined that the distributor system is interested in the content specified by said provided information, supplying by said publishing system, metadata and a rights specification to said distributor system, said metadata being

identification and descriptive data of said content and said rights specification being at least one of access rights, usage rights and accompanying conditions;

new independent claim 199 (emphasis added) recites:

A system for publishing content, the system comprising:
a publishing system for receiving a selection of content from a user of said publishing system, said selection identifying an item of content;
said publishing system receiving a request to publish the selected content from the user of said publishing system;
a distributor system;
said publishing system providing in response to the request from the user to publish the content, information to the distributor system, said information comprising at least one of a description of the content, metadata of the content, content identifiers, publisher information, content repository indication and a rights specification identifier;
upon receiving the information, said distributor system generating a response using said provided information and pre-defined rules stored in a database, said pre-defined rules for determining whether the distributor system is interested in the content specified by said provided information;
said distributor system providing the response to said publishing system;
said publishing system determining whether the response indicates that the distributor system is interested in the content specified by said provided information; and
only if said publishing system has determined that the distributor system is interested in the content specified by said provided information, said publishing system supplying metadata and a rights specification to said distributor system, said metadata being identification and descriptive data of said content and said rights specification being at least one of access rights, usage rights and accompanying conditions; and

new independent claim 249 (emphasis added) recites:

A computer readable medium including one or more computer readable instructions embedded therein for publishing content and configured to cause one or more computer processors to perform the steps of:

receiving, by a publishing system, a selection of content from a user of said publishing system, said selection identifying an item of content;
receiving, by said publishing system, a request to publish the selected content from the user of said publishing system;

providing, by said publishing system in response to the request from the user to publish the content, information to a distributor system, said information comprising at least one of a description of the content, metadata of the content, content identifiers, publisher information, content repository indication and a rights specification identifier;

upon receiving the information, said distributor system generating a response using said provided information and pre-defined rules stored in a database, said pre-defined rules for determining whether the distributor

system is interested in the content specified by said provided information;
providing, by said distributor system, the response to said publishing system;

determining, by said publishing system, whether the response indicates that the distributor system is interested in the content specified by said provided information; and

only if said publishing system has determined that the distributor system is interested in the content specified by said provided information, supplying by said publishing system, metadata and a rights specification to said distributor system, said metadata being identification and descriptive data of said content and said rights specification being at least one of access rights, usage rights and accompanying conditions.

Thus, new independent claims 147, 199, and 249 include the novel concept of a publishing system first providing information regarding selected content to distributor system, wherein the publishing system then determines whether or not the distributor is interested in the content, and only when the distributor system has indicated to the publishing system that it is interested, the metadata and the rights specification are sent to the distributor system.

By contrast, *Spagna et al.* is directed to a method for permitting electronic delivery of digital content, wherein metadata is acquired, which has been previously associated with content, promotional metadata is extracted for use with an electronic store, the metadata is altered to create offer data and transaction data (*Spagna et al.*, Abstract). However, *Spagna et al.* fails to teach disclose or suggest the details of the publishing processes, as recited in new independent claims 147, 199, and 249.

Ginter et al. is directed to systems and methods for secure transaction management and electronic rights protection, wherein electronic appliances help to ensure that information is accessed and used only in authorized ways, and maintain the integrity, availability, and/or confidentiality of the information, and which provide a distributed virtual distribution environment (VDE) that may enforce a secure chain of handling and control to control and/or meter or otherwise monitor use of electronically stored or disseminated information (*Ginter et al.*, Abstract). However, *Ginter et al.* also fails to teach disclose or suggest the details of the publishing processes, as recited in new independent claims 147, 199, and 249.

Erickson is directed to a system for packaging copyrighted electronic media in a secure electronic format, and registering it on associated registration server, which serves to

provide on-line licensing and copyright management for the media, wherein users are connected to the server to enable data transfers and to transact licenses to utilize the media (*Erickson*, Abstract). However, *Erickson* also fails to teach disclose or suggest the details of the publishing processes, as recited in new independent claims 147, 199, and 249.

Yoshioka et al. is directed to a content proceeds distribution system that distributes proceeds of a sold content to third parties, wherein each of the third parties has a right of charge, not prescribed in a sales contract, at a rate corresponding to the right thereof, a content database stores by content IDs all providers of the content and all the parties having the right of charge for copying and selling the content, an agreement of a share allocated to an operator of an SD center is registered in a contract master, and a payment section, upon a payment of proceeds, subtracts the share of the operator of the SD center from the proceeds by referring to the agreement of the share of the operator that is registered in the contract master and then distributes the proceeds after subtraction according to each ID stored in the content database (*Yoshioka et al.*, Abstract). However, *Yoshioka et al.* also fails to teach disclose or suggest the details of the publishing processes, as recited in new independent claims 147, 199, and 249.

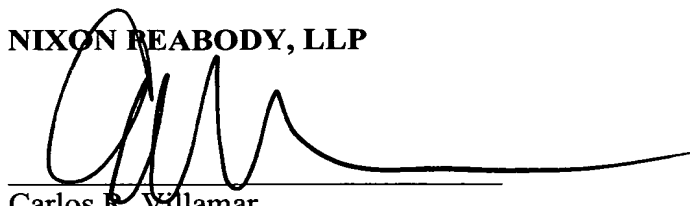
Horstmann is directed to methods of electronic software distribution in which software products may be wrapped by their publishers in a straightforward, secure manner, but in such a way as to allow for the addition of information by downstream distribution channel partners, e.g., distributors and merchants (resellers), wherein distribution policies, or business rules, governing the distribution process may be fixed by the software publisher or may be left to the discretion of channel partners (*Horstmann*, Abstract). However, *Horstmann* also fails to teach disclose or suggest the details of the publishing processes, as recited in new independent claims 147, 199, and 249.

The dependent claims are patentably distinguishable over the noted references on their on merits and for as least the reasons discussed above with respect to their independent claims. Accordingly, the noted references, whether taken alone or in combination, fail to teach, disclose or suggest all of the features recited in the new claims 147-249

In view of the foregoing, it is submitted that the present application is in condition for allowance, and a notice to that effect is respectfully requested. If a conference would expedite prosecution of the instant application, the Examiner is hereby invited to telephone the undersigned attorney to arrange such a conference.

Respectfully submitted,

NIXON PEABODY, LLP

A handwritten signature in black ink, appearing to read 'Carlos R. Villamar', written over a horizontal line.

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Amendments to the Drawings:

Please replace existing Figures 1-12 with replacement Figures 1-12 enclosed herewith.